or gaming, and whether there was a game or pretended game of chance.

I think that it can be said that the inside of an amusement park is a place to which the public have or are permitted to have access. The difficulty arises over the question of whether the place is "open". The corresponding section in the Vagrant Act Amendment Act, 1873, was considered in *Langrish v. Archer*[1]. It was held that the inside of a railway carriage when used for conveying passengers was an open and public place within the meaning of the section. That case has not been overruled and I think, can be applied to the present case. I think that the fact that winners received cigarettes instead of money does not prevent gaming or wagering from taking place. As to whether or no this is a game of chance is largely a question of fact and it must, I think, be decided on common sense lines. It may be possibly true that if a person spent as much time in practice as a professional billiard player he might win more often than he would if the matter were one of pure chance, but the sort of person who plays this game is not going to spend his life doing that, and the odds paid show that it is treated by the proprietor as a matter of chance. If any appreciable portion of the public could by their skill improve their chances he could not pay such odds.

The appeal must be dismissed.

Appeal dismissed.

ANG KWEE SENG v. REGINA.

[App. Crim. Juris. (Sir Charles Murray-Aynsley, C.J.) May 21, 1952]

[Singapore — Magistrate's Appeal No. 39 of 1952]

Import and Export — Control of Import and Export Ordinance, 1950, s. 27 — Prohibition of Export Order, 1950, paras. 2(1) and 7.*

The appellant was convicted on 28th February, 1952 on a charge that he did attempt to export 30 bags of rice otherwise than under or in accordance with a licence or permit either general or special issued by or on behalf of the Controller of Imports and Exports and thereby committed an offence under section 27 of the Control of Imports and Exports Ordinance, 1950 read with para. 2(1) of the Prohibition of Export Order, 1950, punishable under para. 7 of the same Order. The appellant pleaded guilty and was convicted and sentenced to a fine of $1,000 or three months rigorous imprisonment, and the 30 bags of rice were ordered to be forfeited.

The appellant appealed against the conviction and sentence and order of forfeiture on the ground that (a) the charge on which he pleaded guilty and on which he was convicted states no offence in point of law; (b) the facts admitted by him disclose no offence in point of law; and (c) the form and phraseology of the charge was misleading and did in fact mislead the appellant, wherefore, he pleaded guilty, when in fact he had committed no offence under the Control Imports and Exports Ordinance, 1950, or the Prohibition of Export Order, 1950.

The statement of facts given by the prosecution after the plea of guilty (which the appellant admitted) consisted only of the information of the complainant, a preventive officer who stated:—

"At 2.10 p.m. on 5.2.52 R.O. 318 and M.S. 16 were on patrol in Customs outboard Motor Launch at the Singapore River opposite the Marine Police Station and there they saw a motor sampan No. SC 6037 coming into the River from the sea. This motor sampan was stopped and R.O. 318 found thirty bags of rice with the accused and the motor sampan man on board.

"R.O. 318 spoke in Malay and asked the accused, Ang Kwee Seng, who claimed ownership of the 30 bags of rice, as to whether he had any import or export permits for his rice. The accused said that he had none and later he produced a chinese document a receipt for 30 bags of rice purchased from a shop Chuan Hup Seng of 330, Beach Road, Singapore. From the accused's statement it was ascertained that he was attempting to export the 30 bags of rice without an export permit. He was stopped at the Singapore River while he was on his way to look for his tongkang with a Taikong whose nickname was Tiong Ah and who was to take the 30 bags of rice to a neighbouring island.

"No permit or licence to export the 30 bags of rice had been issued by the Controller of Imports and Exports or by any person authorised by him in that behalf."

The appeal came before Sir Charles Murray-Aynsley, C.J. who dismissed the appeal on the ground that since the appellant was charged with an offence known to the law he could not go behind that. By way of revision, —

Held, that it was clear from the information of the complainant, a preventive officer, and from the statement of the appellant, that whatever the ultimate intentions of the appellant may have been, there may have been preparation but there was not yet an attempt, and that the Penal Code does not apply and the English cases are applicable, and ordered the conviction to be quashed.

MAGISTRATE'S APPEAL.

S. H. D. Elias for the appellant.

E. P. Shanks for the Crown.

Cur. Adv. Vult.

Sir Charles Murray-Aynsley, C.J. : — In this case the appellant, not being at that time represented, pleaded guilty. Since he was charged with an offence known to the law I cannot go behind that and the appeal against conviction is dismissed.

The appellant had been charged with attempting to export a certain quantity of rice. It is clear from the information of the complainant, a preventive officer, and from the statement of the appellant, that, whatever the ultimate intentions of the appellant may have been,

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Section 27 of the Control of Imports and Exports Ordinance, 1950 reads:

"Any person abets, within the meaning of the Penal Code, the commission of any offence, and any person who attempts to commit any offence, shall be liable to the same punishment as that provided for the offence so abetted or attempted."

there may have been preparation but there was not yet an attempt. The Penal Code does not apply and the English cases are applicable. By way of revision I order the conviction to be quashed and the fine, if paid, to be refunded.

Appeal dismissed. On revision conviction quashed.

ABDUL MANAP v. PUBLIC PROSECUTOR.

[Court of Appeal (Mathew, C.J., Spenser Wilkinson and Buhagiar, JJ.) May 22, 1952]

[K.L. — F.M. Criminal Appeal No. 44 of 1952]

Emergency Regulations, 1951 — Regulation 4(1)(a) and (b) — Possession of rifle and rounds of ammunition without lawful authority — Onus of proof.

The facts in this case in short are that on 30th March, 1952 whilst Security Forces were searching a plantation for terrorists, the appellant was found in some bushes and when surrounded got up and surrendered. He had round his waist a Webbing belt carrying ammunition pouches in which were a total of 40 rounds of .303 ammunition. A few feet away from where the appellant was found there was a rifle with five rounds in the magazine. In a statement subsequently made to Police (which was properly admitted in evidence) the appellant said: "I threw away my gun but the pouch which was tied to my belt was on my waist."

The appellant contended that the prosecution had failed to prove the appellant to be in unlawful possession of the rifle or ammunition and that the learned Judge was wrong when he directed the assessors that they could infer unlawful possession from the conduct of the accused as revealed in his statement. It was argued that the onus of proving want of authority rested upon the prosecution and that in the circumstances of the case that onus had not been discharged.

Held, that in cases of this kind under Regulation 4 of the Emergency Regulations, 1951 it is not an essential part of the case for the prosecution to prove the absence of lawful authority and that in the present case the onus of the negative averment was on the accused to prove that he had lawful authority to possess the arms and the ammunition.

Cases referred to:—

(1) *Lim Ah Tong v. Public Prosecutor* (1949) M.L.J. 67.

(2) *Busu bin Haji Teh v. Public Prosecutor* F. M. Criminal Appeal No. 36 of 1949 (unreported).

(3) *Rex v. Oliver* 29 Cr. App. R. 137.

(4) *Rex v. Turner* 5 M. & S. 206.

(5) *Abdul Aziz bin Jaafar v. Public Prosecutor* (1949) M.L.J. 181 at p. 183.

(6) *Williams v. Russell* (1949) L.T. 190.

COURT OF APPEAL.

M. L. R. Doraiswamy Aiyer for the appellant.

D. M. K. Grant (D.P.P.) for the Public Prosecutor.

Cur. Adv. Vult.

The judgment of the Court of Appeal was delivered by:—

Spenser Wilkinson, J.: — The appellant was convicted upon charges of having in his possession a rifle without lawful authority therefor, contrary to Regulation 4(1)(a) of the Emergency Regulations, 1951 and with possession of 45 rounds of ammunition, contrary to Regulation 4(1)(b) of the same Regulations.

The relevant facts can be shortly stated. On the 30th March, 1952, whilst Security Forces were searching a plantation for terrorists, the appellant was found in some bushes and when surrounded got up and surrendered. He had round his waist a Webbing belt carrying ammunition pouches in which were a total of 40 rounds of .303 ammunition. A few feet away from where the appellant was found there was a rifle with five rounds in the magazine. In a statement subsequently made to Police (which was properly admitted in evidence) the appellant said:—

"I threw away my gun but the pouch which was tied to my belt was on my waist."

The only ground of appeal argued before us was an additional ground of appeal filed by Counsel on behalf of the appellant to the effect that the prosecution had failed to prove the appellant to be in unlawful possession of the rifle or ammunition and that the learned Judge was wrong when he directed the assessors that they could infer unlawful possession from the conduct of the accused as revealed in his statement. It was argued that the onus of proving want of authority rested upon the prosecution and that in the circumstances of the case that onus had not been discharged, and the decision of the Court of Appeal in the case of *Lim Ah Tong v. Public Prosecutor*[1] was relied upon.

The prosecution relied upon a later unreported decision of the Court of Appeal in *Busu bin Haji Teh v. Public Prosecutor*[2]. The judgment in this case, after referring to the short digest of *Lim Ah Tong's*[1] case, which appears in (1949) M.L.J. 67, proceeds as follows:—

"We have read the full judgment in that case and the portion of it relied upon by Mr. Hall is underlined in the following passage:—